

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF PHELPS GAS COMPANY,)
INC., FOR A RATE ADJUSTMENT PURSUANT TO THE)
ALTERNATIVE RATE FILING PROCEDURE FOR SMALL) CASE NO. 9911
UTILITIES)

O R D E R

On April 9, 1987, Phelps Gas Company, Inc., ("Phelps") filed an application seeking to increase its rates pursuant to the Alternative Rate Filing Procedure for Small Utilities. On February 8, 1988, the Commission granted an increase in annual revenues of \$11,477. On February 29, 1988, Phelps and Columbia of Kentucky, Inc., ("Columbia") filed Petitions for Rehearing requesting that the Commission reconsider its denial of a surcharge to extinguish Phelps' arrearage to Columbia. Columbia additionally petitioned that if a surcharge is not granted that it be authorized to terminate service to Phelps.

On March 15, 1988, the Utility and Rate Intervention Division, Office of the Attorney General ("AG") filed its response to the Petitions for Rehearing. The AG stated that the requests for rehearing should be denied on the basis that no new evidence was included in the Petitions.

In its Petition, Phelps argued that the rates granted are insufficient to produce the revenues recited in the Order and that it is unreasonable for the Commission to require Phelps to

negotiate an agreement with Columbia to extinguish the arrearage because such negotiation would be futile. Phelps did not provide supporting calculations for its contention that the rates do not produce the revenues recited in the Order; however, the Commission has reviewed its computations and the rates do in fact generate revenues as described on page 7 of its February 8, 1988, Order. Regarding Phelps' contention that negotiations with Columbia would be futile, the Commission reiterates its directive that Phelps act in good faith and resolve this problem by means other than burdening its ratepayers with a surcharge.

Columbia based its Petition upon the contentions that Phelps was not previously granted revenues sufficient to meet its operating expenses, that the revenues granted do not provide sufficient cash flow to eliminate the arrearage in a reasonable manner, and that Phelps cannot be relied upon to comply with Commission directives to elevate Columbia to priority creditor status. The Commission cannot find support for Columbia's first two contentions in the record. Concerning the first, the Commission in its February 8, 1988, Order, in the section to which Columbia alluded, stated that Phelps has previously been granted revenues adequate to allow it the opportunity to meet its reasonable operating expenses; Columbia's Petition misrepresents that finding, and the Commission affirms that based on the evidence, as presented by Phelps and Commission staff in this proceeding, the revenues granted are sufficient to meet the reasonable operating expenses of Phelps. Concerning Columbia's second contention, the Commission reiterates that it believes that the availability of \$9,325

in operating cash flow, and cash flow after interest of \$4,925, generated by the rates granted is sufficient for Phelps to negotiate and honor a repayment plan to extinguish the arrearage. Columbia's third contention does have merit, given that the arrearage is now approximately \$59,000 and no payment has been made to Columbia by Phelps since June 1987. But the Commission does not believe Phelps' indication that it will violate Commission directives is a valid basis for modifying Commission decisions nor granting rehearing.

The Commission established filing requirements as a part of the decision in this matter to provide a monitoring mechanism to prevent Phelps from further disregard of its Orders. The Commission intends to enforce the provisions of the Order establishing Columbia as the priority creditor.

Columbia further petitioned that if a surcharge is not granted that it be authorized to terminate service to Phelps. The Commission has acted within its regulatory responsibility and is providing sufficient revenues for Phelps to meet its financial obligations. The Commission has established a monitoring mechanism in this case which should provide assurance that Phelps will meet the terms of a repayment plan with Columbia. The Commission agrees that Columbia must ultimately have the right to terminate its nonpaying customers; however, this should be a last resort. In view of the findings and directives herein, authorization to terminate service now would be premature.

In its February 8, 1988, Order, page 6, the Commission required Phelps to begin submitting monthly operating statements

showing all receipts and disbursements. The Commission affirms this requirement and hereby directs Phelps to file such monthly statements by the 25th of the succeeding month. The Commission further ordered that Phelps and Columbia begin negotiations to arrive at an agreement with Columbia within 30 days of the Order, by March 9, 1988, and that detailed results of these negotiations should be filed within 45 days of the Order. The negotiations should now be concluded and the Commission again directs that a report on the results be filed no later than March 24, 1988.

SUMMARY

Based upon the above discussion and due to the lack of additional evidence, the Commission finds that the Petitions for Rehearing of Columbia and Phelps should be denied.

IT IS THEREFORE ORDERED that:

1. The Petitions for Rehearing of Columbia and Phelps be and hereby are denied.

2. Phelps shall consider Columbia to be the first priority creditor and payment for current purchased gas billings shall be made prior to payment of any other creditor.

Done at Frankfort, Kentucky, this 18th day of March, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Herman
Chairman

Robert M. Davis
Vice Chairman

James N. Williams
Commissioner

ATTEST:

Executive Director